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JAMES HENRY FISHER, LL. B., 1898, died on May 3, 1901, at his home in Denver, Colorado. He was an editor of the Review, and the Recent Cases of Volume 11 owe much to his ability and industry. One of the youngest members of the class, he was at the same time a most energetic and enthusiastic student, being singularly-gifted with mental alertness and quick comprehension. He engaged in law practice in New York City, but ill health soon caused him to return to Colorado. His qualities of character and mind won the esteem of all who knew him, and cause their deep regret at his early death.

THE RIGHT OF A BELLIGERENT TO LEVY CONTRIBUTIONS AND REQUISITIONS. — Since, through the assessment of taxes and in other ways, the inhabitants of the territory of one belligerent can be made to contribute to the support of that belligerent in its military operations, the rule has become established that enemy character is determined by domicile, not by allegiance. *The Indian Chief*, 3 Rob. 12, 22; *Mrs. Alexander's Cotton*, 2 Wall. 404 (*semble*); *Haggerty's Case*, Moore, International Arbitrations, 2661, 2663. Hence a belligerent is required to show no more leniency toward foreigners in enemy territory than the laws of war require him to extend towards native inhabitants. Upon this ground the United States and Chilian Claims Commission has decided, in the case of *Prevost v. Chile*, that American citizens in Peru during the war between that country and Chile were entitled to no special privileges, and that, since one of the rights of a belligerent is to levy contributions and requisitions upon his

enemy, the respondent government is not required to make compensation for money and property thus taken from the claimants, as, without discrimination, from other inhabitants. The case seems to be the first in which the right to levy contributions and requisitions is considered, yet in deciding that such levies may be imposed upon resident aliens, as well as upon native inhabitants, the Commission is undoubtedly correct, and is supported by the position of the English government in refusing to press against Germany claims of British subjects similar to the claim dismissed in the principal case. *Calvo, Le Droit International*, §§ 2250-2252. The decision is also supported by usage among nations. Moreover, the failure in some modern wars to exercise this right to its full extent has not been regarded as the growth of even an implied recognition that the right no longer exists. *Hall, International Law*, 4th ed. 445. The practice of the Germans in France, where in six months the requisitions, in addition to large contributions, are estimated to have amounted to \$80,000,000, shows the extent to which the right may be stretched, and even such excessive practice has not led to a denial of the right to draw sustenance from the invaded country. 3 *Revue de Droit International*, 288, 331-337. The few writers who are opposed to the recognition of the right in question, base their objections upon the ground that the modern practice requiring the giving of receipts, or *bons de requisition*, implies a liability to make compensation. Receipts, however, serve merely as evidence of the amounts collected, and hence as a guide in making subsequent levies, to enable the government of the invaded country to reimburse its citizens, or to increase or diminish, according to which party is ultimately successful, the final indemnity to be paid. *Hall, ut supra*.

In addition to the privilege of a belligerent to cast the burden of the war upon the enemy (*Vattel, Law of Nations*, bk. iii. ch. ix. § 165), the continued recognition of the right in question is to be supported upon grounds of policy and of necessity. For it is not always possible to furnish supplies from the home country, and regulated seizure by the authorities is infinitely preferable to the vandalism and pillage certain to result, if soldiers are not supplied. The reasons are especially strong where territory is under the control of a military occupant, who so far replaces the former sovereign that he is responsible for the protection of life and property in the district under his control. It is just, as well as necessary, that the expenses incurred in thus maintaining order should be borne by the inhabitants of the occupied districts, in the same manner as these inhabitants contributed towards the expenses of the *de jure* government. Hence the occupant must have power to collect taxes, which commonly under such circumstances bear the name of contributions, or requisitions when imposed in kind. No greater liability for repayment should result than is ever borne by the sovereign, who imposes taxes for the public good. While, however, the exercise of the right, especially during military operations, may well be demoralizing, this result, in view of the practice during the century as well as of the practical unanimity among the authorities, is not sufficient, in the absence of an agreement among nations, to warrant a denial of the right to levy contributions and requisitions. The greatly increased expense and difficulty of carrying on a war is likely, moreover, to counterbalance the effect which the demoralizing influence might otherwise have, so that a more extensive exercise of the right in future wars is by no means improbable. *Bonfils, Manuel de Droit International Public*, § 1208.